

**MINUTES OF THE GOVERNING BOARD
OF THE ANTELOPE VALLEY AIR QUALITY MANAGEMENT DISTRICT
LANCASTER, CALIFORNIA**

AGENDA ITEM 4

DATE: August 16, 2011

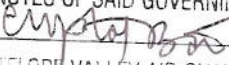
RECOMMENDATION: Set date of September 20, 2011 to conduct a public hearing to consider the amendment of Rule 315 – *Federal Clean Air Act Section 185 Penalty* and approval of CEQA documentation.

SUMMARY: This item officially sets the date for the mandatory public hearing to be held on the amendment of Rule 315. Rule 315 is proposed for amendment to include additional provisions at the request of the United States Environmental Protection Agency (USEPA) to make the rule approvable and eliminate the possibility of sanctions as well as a Federal Implementation Plan (FIP).

BACKGROUND: The Antelope Valley Air Quality Management District (AVAQMD) originally adopted Rule 315 – *Federal Clean Air Act Section 185 Penalty* on February 15, 2011. The AVAQMD submitted Rule 315 to the California Air Resources Board (CARB) on March 3, 2011 requesting inclusion in the State Implementation Plan (SIP), and CARB submitted Rule 315 to the USEPA on April 22, 2011 as a revision to the State Implementation Plan (SIP). USEPA made a finding of completeness on May 19, 2011, which reset the sanction clock, but not the FIP clock. The AVAQMD is now amending Rule 315 to include additional provisions at the request of USEPA to make the rule approvable and eliminate the possibility of sanctions as well as a FIP.

Rule 315 was adopted to implement a mandatory penalty pursuant to Section 185 of the Federal Clean Air Act (42 U.S.C. §7511d) within the AVAQMD portion of the Southeast Desert Modified Air Quality Maintenance Area (AQMA). 42 U.S.C. 7511d (Federal Clean Air Act Section 185, or Section 185) requires the imposition of a penalty of \$5,000 per ton (adjusted for inflation) on major facilities within ozone non-attainment areas that fail to meet the severe or extreme ozone attainment date unless such major facilities have reduced their ozone precursor emissions by twenty percent (20%) from a baseline amount. The jurisdiction of the AVAQMD is located entirely within the AQMA which failed to meet the one-hour ozone standard on or before 2007. Therefore the AVAQMD is subject to the provisions of Section 185. The USEPA made a finding of a failure to submit a rule implementing the penalty provisions of Section 185 on January 5, 2010 (75 FR 232) which started a SIP eighteen (18) month sanction clock. Potential sanctions

Cc: Tracy Walters

I, CRYSTAL BATES, DEPUTY CLERK OF THE GOVERNING BOARD
OF THE ANTELOPE VALLEY AIR QUALITY MANAGEMENT
DISTRICT, HEREBY CERTIFY THE FOREGOING TO BE A
FULL, TRUE AND CORRECT COPY OF THE RECORD OF
THE ACTION AS THE SAME APPEARS IN THE OFFICIAL
MINUTES OF SAID GOVERNING BOARD MEETING
 DEPUTY CLERK OF THE BOARD
ANTELOPE VALLEY AIR QUALITY MANAGEMENT DISTRICT

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include an increase in the new source review offset ratio and suspension of federal highway transportation funding. Rule 315 was designed to implement the provisions of Section 185 and to stop the sanction clock upon approval of the submission by USEPA. The submission of Rule 315 was found to be complete by USEPA, which stopped the sanction clock, but not the FIP clock. Under a FIP, USEPA, not the state, determines what steps must be taken to implement Section 185. For the FIP clock to be turned off, USEPA must approve the SIP within 24 months of publishing the finding of the rule as not approvable. The AVAQMD is now amending Rule 315 to include additional provisions at the request of USEPA to make the rule approvable, thus removing potential sanctions as well as a FIP.

A Notice of Exemption, Categorical Exemption (Class 8; 14 Cal. Code Reg. §15308) will be prepared by the AVAQMD for the amendment of Rule 315 pursuant to the requirements of CEQA.

REASON FOR RECOMMENDATION: Health & Safety Code §§40702 and 40703 require the Governing Board to hold a public hearing before adopting rules and regulations. Also, 42 U.S.C. §7410(l) (FCAA §110(l)) requires that all SIP revisions be adopted after public notice and hearing.

REVIEW BY OTHERS: This item was reviewed as to legal form by Karen Nowak, District Counsel and by Eldon Heaston, Executive Director on or before August 1, 2011.

FINANCIAL DATA: No increase in appropriation is anticipated.

PRESENTER: Bret Banks, Operations Manager

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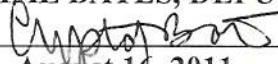
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ACTION OF THE GOVERNING BOARD
APPROVED

Upon Motion by CRIST, Seconded by HAWKINS, as approved by the following vote:

Ayes: 6 CRIST, HAWKINS, MCCOY, LEDFORD, DISPENZA, MANN (Alt)
Noes:
Absent: 2 MARQUEZ, LAWSON
Abstain:
Vacant:

CRYSTAL BATES, DEPUTY CLERK OF THE GOVERNING BOARD

BY 

Dated: August 16, 2011